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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/660,490	09/12/2000	Tadahiro Aihara	04329.2392	6306
22852	7590	10/19/2006		EXAMINER
		FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP 901 NEW YORK AVENUE, NW WASHINGTON, DC 20001-4413		FLANDERS, ANDREW C
			ART UNIT	PAPER NUMBER
			2615	

DATE MAILED: 10/19/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/660,490	AIHARA ET AL.	
Examiner	Art Unit		
Andrew C. Flanders	2615		

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 22 August 2006.

2a) This action is **FINAL**. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 14, 15, 30 and 31 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) 14, 15 and 30 is/are allowed.

6) Claim(s) 31 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on 12 September 2000 is/are: a) accepted or b) objected to by the Examiner.

 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a))

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) Notice of References Cited (PTO-892)
2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____

4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ .

5) Notice of Informal Patent Application

6) Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 31 is rejected under 35 U.S.C. 103(a) as being unpatentable over Burrows (U.S. Patent 6,377,530) in view of Maehashi (U.S. Patent 6,587,641)

Regarding **Claim 31**, Burrows discloses:

A method of controlling a recording and reproducing apparatus that is operable according to first, second, third and fourth operating modes (i.e. a play mode, a stop mode, a record mode, and a reverse/fast forward mode), the apparatus comprising:
means for recording a content supplied from an external device (i.e. a computer jack; Fig. 1 element 132)

means for reproducing the content the reproducing means buffering content data before reproduction (i.e. a compressed audio data buffer and an audio output jack; Fig. 1 elements 108 and 130).

Burrows does not explicitly disclose means for detecting that a sufficient amount of the content data is buffered when a recording command is issued during reproduction; and

means for enabling said recording means when said detecting means detects that the sufficient amount of the content data is buffered.

Maehashi discloses

Writing limiting means constantly monitors the second predicted consumption duration worked out by second consumption duration predicting means, when the second predicted consumption is less than the second threshold value, a write inhibit flag is erected to bar writing means from writing; col. 7 lines 32 – 38; and in the case the second predicted consumption duration is larger than the second threshold value, the write inhibit flag is lifted to lift the ban on writing; col. 7 lines 48 – 51.

Applying this disc access teaching to the Burrows reference would allow Burrows to record during playback when a recording command was issued (i.e. connecting the device to the computer via the computer jack; Fig. 1). The combination would read upon the limitation of means for detecting that a sufficient amount of the content data is buffered when a recording command is issued during reproduction; and

means for enabling said recording means when said detecting means detects that the sufficient amount of the content data is buffered.

It would have been obvious to one of ordinary skill in the art at the time of the invention to apply Maehashi's disk recording and reproducing technique to the player disclosed by Burrows. One would have been motivated to do so to prevent interruption during reading or writing; See Maehashi col. 1 lines 5 – 60.

The combination further discloses:

means for setting as an operation mode one of the first, second, third, or fourth operation modes (i.e. burrows discloses a user interface with various settings; Fig. 1 element 116; and a play mode, a stop mode, a record mode, and a reverse/fast forward mode);

and means for controlling said reproducing means in accordance with the operation mode when said detecting means detects that the sufficient amount of the content data is not buffered (i.e. when the play command is issued in Burrows, Maehashi discloses that video-audio data being read is kept real-time by temporarily restricting the writing of video-audio data in the storage device on the basis of the second predicted consumption duration while the data is being read; col. 8 lines 1 – 5).

The combination does not explicitly disclose means for controlling said recording means in accordance with the operation mode when said detecting means detects that the sufficient amount of the content data is not buffered. However, it is inherent that there must be some means present to allow for a recording. A recording operation must be set in order to start the method disclosed by Maehashi. Thus, in addition to the cited passages stated above, this reads upon the claimed limitation of means for controlling said recording means in accordance with the operation mode when said detecting means detects that the sufficient amount of the content data is not buffered.

The combination further discloses wherein said setting means comprises an interface device for manually presetting the operation mode (Fig. 1 element 116).

Claims 14, 15 and 30 allowed.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew C. Flanders whose telephone number is (571) 272-7516. The examiner can normally be reached on M-F 8:30 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sinh Tran can be reached on (571) 272-7546. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

acf



SINH TRAN
SUPERVISORY PATENT EXAMINER